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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 ANTHONY MORRISON,

12 Petitioner,

13 vs.

14 BEN CURRY, Warden,

15 Respondent.

Civil No. 08cv0999-WQH (JMA)

**ORDER TRANSFERRING ACTION
TO UNITED STATES DISTRICT
COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA**

16 Petitioner, a state prisoner proceeding pro se, has filed a petition for a writ of habeas
17 corpus pursuant to 28 U.S.C. § 2254. Petitioner challenges a parole eligibility hearing held in
18 the Northern District of California. In accordance with the practice of district courts in
19 California, the Court transfers the Petition to the United States District Court for the Northern
20 District of California.

21 A petition for writ of habeas corpus may be filed in the United States District Court of
22 the judicial district in which the petitioner is presently confined or the judicial district in which
23 he was convicted and sentenced. See 28 U.S.C. § 2241(d); Braden v. 30th Judicial Circuit
24 Court, 410 U.S. 484, 497 (1973). Petitioner here was convicted in the Riverside County
25 Superior Court. (Pet. at 1.) That court is located in Riverside County, which is within the
26 jurisdictional boundaries of the United States District Court for the Central District of California,
27 Eastern Division. See 28 U.S.C. § 84(c)(1). Petitioner is presently confined at the Correctional
28 Training Facility in Soledad, California, where the parole eligibility hearing he challenges in this


1 action was held. (Pet. at 6; Pet. Ex. A at 1.) That prison is located in Monterey County, which
 2 is within the jurisdictional boundaries of the United States District Court for the Northern
 3 District of California. See 28 U.S.C. § 84(a). Jurisdiction over this Petition thus exists in the
 4 Central District, Eastern Division, and in the Northern District. See 28 U.S.C. § 2241(d).

5 Although this Court does not have jurisdiction over the action, “[u]nder a provision of the
 6 Federal Courts Improvement Act, 28 U.S.C. § 1631, if a court finds that there is a want of
 7 jurisdiction the court shall transfer the action to any other such court in which the action could
 8 have been brought ‘if it is in the interest of justice.’” Miller v. Hambrick, 905 F.2d 259, 262 (9th
 9 Cir. 1990) (citing In re McCauley, 814 F.2d 1350, 1351-52 (9th Cir. 1987)). The Ninth Circuit
 10 has held that transferring a habeas corpus proceeding to a district with proper jurisdiction will
 11 be in the interest of justice because normally dismissal of an action that could be brought
 12 elsewhere is “time-consuming and justice-defeating.” Miller, 905 F.2d at 262 (quoting
 13 Goldlawr, Inc. v. Heiman, 369 U.S. 463, 467 (1962)). Therefore, pursuant to 28 U.S.C. § 1631,
 14 this Court may transfer this proceeding to a district with proper jurisdiction under 28 U.S.C.
 15 § 2241(d). It is generally the practice of the district courts in California to transfer habeas
 16 actions challenging parole eligibility hearings to the district in which the hearing was conducted.
 17 Any and all records, witnesses and evidence necessary for the resolution of a petitioner’s
 18 contentions are more readily available in that district. See Braden, 410 U.S. at 497, 499 n.15;
 19 Laue v. Nelson, 279 F. Supp. 265, 266 (N.D. Cal. 1968). In this case, that district is the
 20 Northern District of California. Therefore, in the furtherance of justice,

21 **IT IS ORDERED** that the Clerk of this Court transfer this matter to the United States
 22 District Court for the Northern District of California. See 28 U.S.C. § 2241(d).

23 **IT IS FURTHER ORDERED** that the Clerk of this Court serve a copy of this Order
 24 upon Petitioner and upon the California Attorney General.

25 DATED: June 17, 2008

26 
 27 **WILLIAM Q. HAYES**
 28 United States District Judge

UNITED STATES DISTRICT COURT

Southern District Of California
Office Of The Clerk
880 Front Street, Room 4290
San Diego, California 92101-8900
Phone: (619) 557-5600
Fax: (619) 702-9900

W. Samuel Hamrick, Jr.
Clerk of Court

June 18, 2008

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
PHILLIP BURTON UNITED STATES
COURTHOUSE, 16TH FLOOR
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CA 94102-3434

Re: Morrison v. Curry, Case No. 08cv00999-WQH-JMA

Dear Sir or Madam:

Pursuant to Order transferring the above-entitled action to your District, we are transmitting herewith our entire original file (excepting said Order).

Enclosed are a certified copy of our Docket and of the Order transferring the action, the originals of which we are retaining.

Please acknowledge receipt on the copy of this letter and return. Thank you.

Sincerely yours,

W. Samuel Hamrick, Jr.
Clerk of Court

By: s/M. Cruz
M Cruz, Deputy

Copy to Attorney for Plaintiffs:
Copy to Attorney for Defendants:

RECEIVED ITEMS DESCRIBED

THIS DATE OF _____
AND ASSIGNED CASE NUMBER _____

CLERK, U.S. DISTRICT COURT

By: _____, Deputy